

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – January 12, 2015

The City of Portage Zoning Board of Appeals meeting was called to order by Jeffrey Bright at 7:00 p.m. in the Council Chambers. Five people were in the audience.

MEMBERS PRESENT: Timothy Bunch, Michael Robbe, Glenn Smith, Phillip Schaefer, Jeffrey Bright, Lowell Seyburn, and Randall Schau.

MEMBERS EXCUSED: A motion was made by Bunch, seconded by Schaefer to excuse Doug Rhodus and Chad Learned. Upon voice vote motion passed 7-0.

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator and Charlie Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Bunch moved and Schaefer seconded a motion to approve the December 8, 2014 minutes with the change that Bright, not Bunch voted no on ZBA #14-14(C). Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

ZBA #14-09, Janine Chicoine, 3620 East Shore Drive: No applicant was present. Upon voice vote, the Board accepted the withdrawal of the application 7-0.

NEW BUSINESS:

ZBA 14-17; Jeremy Vainavicz, 1009 Karendale Avenue: Mais summarized the request to construct a 1,108 square-foot dwelling where a minimum 1,600 square feet is required. Property owner, Larry Mishall, was present to answer questions. Seyburn inquired if the minimum dwelling size requirement for R-1C zones was affected by the size of the basement. Mais stated not in the case of one-story ranch dwellings.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Bunch, seconded by Schaefer to grant a variance to construct a 1,108 square-foot dwelling where a minimum 1,600 square feet is required for the following reasons: there are exceptional or extraordinary circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include it is the only lot in the plat subject to the minimum 1,600 square-foot dwelling requirement; the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity, the right to develop the lot with housing comparable to the rest of the neighborhood; the immediate practical difficulty causing the need for the variance request was not caused by the applicant; the variance would not be detrimental to adjacent property and the surrounding neighborhood; and would not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments and discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Robbe-Yes, Schau-Yes. The motion passed 7-0.

ZBA #14-18, Jerico LLC, 531, 605 West Kilgore Road, 5024, 5036 South Westnedge Avenue: Mais summarized the request to erect a 180 square-foot freestanding sign at 5024/5036 South Westnedge Avenue where a maximum 149 square-foot sign is permitted. Andy Wenzel and Steve Vandersloot were present to answer questions. Mr. Wenzel stated they were allowed a 180 square-foot sign based on the Kilgore Road frontage and a 149 square-foot sign based on the South Westnedge Avenue frontage and thought it made more sense to swap the signs placing the larger 180 square-foot sign on South Westnedge where there was more traffic, and put the smaller 149 square-foot sign on Kilgore Road, where there was less traffic and is across the street from St. Monica church and school. Bunch noted there is currently a freestanding sign in front of Riviera Maya. Mr. Wenzel stated they propose to remove the Riviera Maya sign and incorporate it into the new sign. Bunch inquired if this resulted in a reduction of signage. Mais

stated yes. Seyburn inquired where specifically they would be placing the sign along South Westnedge Avenue. Mr. Vandersloot said they have not yet chosen the specific location, but that it would meet all setback requirements. Seyburn expressed concern for traffic visibility along South Westnedge if there were insufficient minimum clearance under the proposed sign. Mr. Vandersloot replied they considered this as they didn't want to create traffic visibility issues either but felt they could balance adequate visibility while also identifying tenants.

The public hearing was opened. No one spoke for or against the request. The public hearing was closed.

Schau inquired why staff was recommending elimination of the second (16 square-foot) sign along Kilgore Road. Mais stated it would reduce visual clutter. Mr. Wenzel stated they wanted the option to keep the second sign and had a tenant that may be interested in the small sign. Schau stated he would not include the condition that the second (16 square-foot) sign on Kilgore be eliminated. A motion was made by Schau, seconded by Robbe, to grant a variance allowing a 180 square-foot freestanding sign for South Westnedge Avenue and a 149 square-foot sign for Kilgore Road for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the dual frontage zoning lot, and would result in a reduction of signage; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments and discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Schau-Yes. The motion passed 7-0.

ZBA #14-19, The Hinman Company, 5220 South Westnedge Avenue: Mais summarized the request to modify a freestanding sign that would be: a) 212 square-feet in area where a maximum 180 square feet is permitted; and b) 29 feet high where a maximum 25-foot height is permitted. Andy Wenzel and Steve Vandersloot were present to answer questions. Mr. Wenzel stated there is a conforming 180 square-foot sign, and while they were granted a setback variance for a second sign at the north end of the property, the sign was never erected because the north building is located too close to the right-of-way to provide sufficient space for both a sign in front and a safe maneuvering lane. The proposal was to add a 32 square-foot panel at the top of the existing sign but if a second sign were ever to be erected in the future they would make the subject sign conforming. Bunch inquired if the proposed modification would make the sign taller than other signs in the area. Mr. Vandersloot acknowledged it would be taller than other signs but the resulting sign consolidation is preferable to the alternative of erecting a second sign at the front property line.

A public hearing was open. No one spoke for or against the request. The public hearing was closed.

A motion was made by Seyburn, seconded by Bright, to grant a variance to modify a freestanding sign that would be: a) 212 square-feet in area where a maximum 180 square feet is permitted; and b) 29 feet high where a maximum 25-foot height is permitted with the condition that no additional signs be permitted without first making this sign conforming, for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the narrow maneuvering lane in front of the north building; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify businesses on premises; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Robbe-Yes, Schau-Yes. The motion passed 7-0.

ZBA #14-20, Nathan Cronenwett, 1106 West Centre Avenue: Mais summarized the request for a variance from the conflicting land use screening requirements along the southeast side of the site, between the hair salon and the adjacent senior apartment/retirement complex (Portage Pines Apartments, Fountain View Assisted Living Facility, Spruce Creek Apartments). Mr. Cronenwett stated he made a mistake when he followed the advice of a contractor by deviating from the approved site plan, but felt the resulting layout was preferable because the approved site plan made it possible for vehicles to potentially hit the building. Pat Flanagan of Ingersoll, Watson & McMachen stated the existing drive configuration is preferable to the one-way traffic circulation pattern as it provides green space on the west side of the building, preserves mature trees on the south side, and the proposed screening plan is as good as the approved plan. Bright inquired if all the proposed plantings would be on the Portage Pines property. Mr. Flannigan replied most would be on the neighboring property.

A public hearing was opened. Alan Sylvester spoke on behalf of Portage Pines and stated they supported the applicant's proposal as they had already planned on planting additional trees and did not mind maintaining the proposed screening trees. Seyburn noted there was an easement for a water main along the west side of the Portage Pines property and wondered where the location of the main was. Mr. Flanagan stated approximately 10 feet east of the property line and it would not be impacted by the proposed tree placement. Seyburn inquired how Portage Pines would have felt if the applicant had approached them with the screening proposal prior to them deviating from the approved plan. Mr. Sylvester replied they would still have preferred the proposed plan. The public hearing was closed.

The Board discussed various means to ensure the applicant is held responsible for the screening trees. A motion was made by Seyburn, seconded by Schau, to grant a variance permitting the driveway to remain in its current configuration two feet from the east property line and the conflicting land use screening be installed as shown on the proposed plan with the understanding that the applicant assumes all financial responsibility for the installation, maintenance, and if necessary, replacement, of the five screening trees on the adjacent property (7968 Kenmure Drive), with the condition that the minutes of this meeting be recorded at the Kalamazoo County Register of Deeds with the applicant's deed. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the narrowness and depth of the property; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop the property in a logical manner; the immediate practical difficulty (the width of the property) causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-No, Bunch-Yes, Bright-Yes, Robbe-Yes, Schau-Yes. The motion passed 6-1.

OTHER BUSINESS: None

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:59 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator